

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAN REDLER INSURANCE &
FINANCIAL SERVICES, INC.,

Plaintiff,

v.

CONSUMER BENEFITS GROUP,
LLP d/b/a BOOMER BENEFITS,




Defendant.

C21-1267 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The motion to dismiss, docket no. 10, brought by defendant Consumer Benefits Group, LLC d/b/a Boomer Benefits (“Boomer”), pursuant to Federal Rule of Civil Procedure 12(b)(6), is DENIED. Contrary to Boomer’s assertion, plaintiff Dan Redler Insurance & Financial Services, Inc. (“Redler”) has not alleged claims that sound in fraud,¹ but even if Redler has accused Boomer of fraud, Redler has done so with the particularity required by Federal Rule of Civil Procedure 9(b). Moreover, to the extent that Redler’s pleading is deficient, the Court would grant leave to amend, and Boomer’s request for a dismissal with prejudice is entirely lacking in merit.

¹ Redler seeks (i) a declaratory judgment of non-infringement of Boomer’s trademarks; (ii) cancellation of Boomer’s registration for the design mark ; and (iii) denial of Boomer’s application for the word mark “WE SPEAK MEDICARE.” Redler alternatively sues Boomer under federal and state law for infringement of Redler’s design mark . *See* Compl. at ¶¶ 25–43 (docket no. 1). Of these claims, only the second one, seeking cancellation of U.S. Registration No. 5,831,207, is premised on Boomer’s allegedly false representation to the United States Patent and Trademark Office concerning when Boomer first used the design mark  in commerce.

1 (2) Pursuant to the parties' telephonic request, the initial scheduling deadlines
2 are EXTENDED as follows:

3 Conference pursuant to Fed. R. Civ. P. 26(f) December 17, 2021

4 Initial Disclosures pursuant to Fed. R. Civ. P. 26(a) January 7, 2022

5 Combined Joint Status Report and Discovery Plan January 7, 2022

6 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
7 record.

8 Dated this 10th day of November, 2021.

9 Ravi Subramanian
Clerk

10 s/Gail Glass
Deputy Clerk